

dences of their payment to be produced as a means whereby *Anthony Hook* and his representatives may be protected against those claims. Such evidence, in addition to any thing that might be said in the answer, is also necessary, because it constitutes an affirmative part of that title set up by the representatives of *John Hook* in opposition to the plaintiff's claim, and must therefore be supported by indifferent testimony. All the claims of the enumerated creditors, it is most likely, have been long since barred by the statute of limitations; but, that is a protection which the law itself gave to *Anthony Hook*; he is entitled, by the terms of his deed, to be furnished by *John Hook*, with the evidence of their having been satisfied, as the means of his protection in that form. This answer, therefore, is not for these reasons also so responsive to the bill as to afford the defendants an adequate defence. On advert- ing to the proofs and exhibits, it appears, that *John Moale's* is the only one of the specified claims, that has been satisfied; and none other are to be allowed and paid.

I lay out of this case the testimony of *Henry Burman*, who, as the husband of one of the distributees of *Anthony Hook*, has an interest in establishing the facts to which he testifies, and is, therefore, an incompetent witness. All the other witnesses are competent. From the copy of the unexecuted bond, the declarations of *Bishop Carroll*, and the other occurrences and proceedings in the Orphans Court, found among the proofs, it appears to have been perfectly well understood between *Anthony Hook* and *John Hook*, during their lives, that *John* held as the trustee of *Anthony*, according to the terms of the deed. (i) And it appears, that the representatives of *John Hook* always admitted, that they held under the deed; and yet, except the claim of *John Moale*, it does not appear, that they ever undertook to shew, that any of the claims of the enumerated creditors had been satisfied. It lay upon *John Hook* and his representatives to shew, that those claims were paid; they have not done so. And the truth is, therefore, that, except *Moale's* claim, none of them have been satisfied.

The answer of *Hagthrop* and wife, after some preliminary notices of several allegations in the bill, and those responses as to the payment of the enumerated debts, passes on to a long history of the sayings, actings and doings of sundry of the next of kin of the late *Anthony Hook*, in relation to the ten acre lot; all of which

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(i) *Mildmay v. Mildmay*, 1 Vern. 53.